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STATE OF CALIFORNIA  
NEW MOTOR VEHICLE BOARD  
**MINUTES**

The New Motor Vehicle Board ("Board") held a General meeting on June 12, 2001, at the Hilton Los Angeles Airport, Catalina A Room, 5711 West Century Boulevard, Los Angeles, California.

**2. ROLL CALL**

Tom Flesh, President of the Board, called the Special meeting to order at 10:07 a.m.

Present:	Edward Bayuk	Tom Novi
	Wendy Brogin	Executive Director
	Robert T. (Tom) Flesh	Robin Parker
	Alan J. Skobin	Staff Counsel
	Solon C. Soteras	Michael Dingwell
	Glenn E. Stevens	Staff Counsel
	David W. Wilson	

Absent: Frederick E. (Fritz) Hitchcock

**3. APPROVAL OF THE MINUTES FROM THE APRIL 26, 2001, SPECIAL MEETING, AND THE APRIL 27, 2001, GENERAL AND SPECIAL MEETINGS**

Mr. Soteras moved to adopt the April 26, 2001, Special Board meeting minutes. Mr. Wilson seconded the motion. Mrs. Brogin abstained from voting because she was not present at the April 26, 2001, Special meeting. The motion carried unanimously.

Comments concerning the April 27, 2001, General meeting minutes were presented by two members. Mr. Flesh commented that with regards to agenda item 5, Consideration of Proposed Ruling, the sentence structure pertaining to comments presented by Peter Welch should be revised as follows: "Comments by Peter Welch were presented concerning the Proposed Ruling." Mr. Stevens suggested that the second sentence of the third paragraph of agenda item 5 be revised as follows: "Mr. Stevens moved to *modify* the Proposed Ruling and instruct Board staff to draft a *modified* Ruling which dismisses the protest without prejudice . . ." Mr. Wilson moved to adopt as amended the April 27, 2001, General Board meeting

minutes. Mr. Stevens seconded the motion. Mrs. Brogin abstained from voting because she was not present at the April 27, 2001, General meeting. The motion carried unanimously.

Mr. Stevens moved to adopt the April 27, 2001, Special Board meeting minutes. Mr. Soteras seconded the motion. Mrs. Brogin abstained from voting because she was not present at the April 27, 2001, Special meeting. The motion carried unanimously.

4. **ACKNOWLEDGMENT OF EMPLOYEE RECOGNITION AWARD RECIPIENT AS SELECTED BY THE BOARD DEVELOPMENT COMMITTEE**

The Board Development Committee nominated Robin Parker, Staff Counsel, to receive the Employee Recognition Award. Robin was recognized for her "outstanding performance in the Board's legal program, ability to manage and complete projects effectively, exhibiting outstanding work habits, and positive attitude working with co-workers." Mr. Stevens moved to adopt the Committee's recommendation. Mr. Soteras seconded the motion. The motion carried unanimously. Messrs. Soteras and Wilson presented Robin with a Certificate of Achievement for being chosen as the Employee Recognition Award Recipient, her name was placed on a perpetual plaque, and she will receive a \$500.00 check.

5. **CONSIDERATION OF DECISION IN LIGHT OF JUDGMENT DENYING THE PETITION FOR PEREMPTORY WRIT OF MANDATE**

SABA A. SABA, SBD PARTNERS, INC. AND HONDA KAWASAKI SPORTCENTER  
vs. KAWASAKI MOTORS CORP., U.S.A.  
Protest No. PR-1633-98

Consideration of the Decision in light of the Superior Court's Judgment denying the Petition for Peremptory Writ of Mandate wherein the Court Ordered the Board to vacate the Proposed Decision of Administrative Law Judge Marilyn Wong, dated May 17, 1999, and accept and issue, as the Final Decision of the Board its August 12, 1999, Decision, in the above-entitled protest, by the Public members of the Board.

This matter was taken off the agenda because the Orange County Superior Court has not issued an order consistent with the Appellate Court's instructions. This matter is tentatively scheduled for the June 26, 2001, Special meeting.

6. **CONSIDERATION OF FORD MOTOR COMPANY'S REQUEST FOR AN EXTENSION OF TIME TO OWN AND OPERATE PENINSULA FORD OF BURLINGAME, INC., IN PREPARATION FOR A SALE TO A SUCCESSOR INDEPENDENT FRANCHISEE IN COMPLIANCE WITH VEHICLE CODE SECTION 11713.3(O)(2)(A)**

The members were provided with a memorandum outlining Ford Motor Company's ("Ford") request for an extension of time to own and operate Peninsula Ford of Burlingame, Inc. ("Peninsula"), until December 31, 2002. Brian Bowlby, an employee of Ford, indicated that it was Ford's intention to include this dealership in the Dealer Development Program and sell 10% of the corporation's stock to Steve Fuentes. Several issues with respect to the real estate have arisen which have caused a delay in Mr. Fuentes investment. Ford anticipated that it would take another year to adequately address the issues, which include the renovation of an existing facility and extension of the leases on the property.

Mr. Bowlby was also available to answer member questions. There was a general consensus among the members that they needed a detailed factual basis outlining the reasons for granting the extension beyond the one-year period. There was also a question as to when the one-year period began to run. Staff was instructed to research this issue.

Mr. Stevens moved to grant an extension of time, until December 31, 2001, for Ford to own and operate Peninsula while attempting to consummate a transfer to the designated purchaser. Ford would be invited back to the Board's November 8, 2001, General meeting, in Sacramento, to address the steps taken towards the transfer. Mr. Soteras seconded the motion. The motion carried unanimously. Messrs. Skobin and Wilson abstained from voting.

7. **UPDATE ON STAFF TRAINING PROGRAMS IMPLEMENTED FOR SUPPORT PERSONNEL, STAFF COUNSEL, AND ADMINISTRATIVE LAW JUDGES - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel updating the training classes that various members of the staff have attended. Mr. Novi provided a brief overview of the staff training programs.

8. **REPORT CONCERNING OUT-OF-STATE TRAVEL PLANS FOR FISCAL YEAR 2001-02 - FISCAL COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning out-of-state travel planned through fiscal year 2001-02. It is the Board policy to review and approve all out-of-state travel by staff. Mr. Novi reviewed the planned out-of-state trips and noted that an additional trip should be considered. In September 2001, the Recreation Vehicle Industry Association ("RVIA") is hosting a conference in Las Vegas. If the Legislation adding recreational vehicles to the Board's jurisdiction continues to progress, then it was suggested that Messrs. Novi and Dingwell attend the conference. Mr. Flesh suggested that approval be sought for three (3) staff members to attend the RVIA conference. Mr. Novi indicated that the members would be provided with conference materials as well. Mr. Stevens moved to approve the out-of-state trips which included the RVIA conference. Mr. Soteras seconded the motion. The motion carried unanimously.

9. **REPORT CONCERNING THE BOARD'S FINANCIAL CONDITION FOR THE 3<sup>RD</sup> QUARTER OF FISCAL YEAR 2000-2001 - FISCAL COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning the Board's financial condition for the third quarter of fiscal year 2000-2001. Mr. Novi reported that the Board's expenditures were 51% of its allocated budget. It was noted that the Board will substantially underspend its allocated budget.

10. **REPORT ON STATUS OF REVISIONS TO THE ASSIGNMENT OF CASES TO BOARD ADMINISTRATIVE LAW JUDGES - POLICY AND PROCEDURE COMMITTEE**

Mr. Dingwell reported that the revised numerical assignment of cases to the Board Administrative Law Judges ("ALJs") was going well. Furthermore, Mr. Dingwell reported that the ALJs are assigned when the case is filed and the litigants appeared comfortable with the procedure.

11. **DISCUSSION CONCERNING PENDING LEGISLATION - POLICY AND PROCEDURE COMMITTEE**

**a. Bills that impact the Board.**

- (1) Senate Bill 774.
- (2) House of Representatives Bill 1296.

**b. Bills of general interest.**

- (1) Senate Bill 91.
- (2) Senate Bill 481.

The members were provided with a memorandum from Tom Novi and Robin Parker summarizing the pending legislation that impacts the Board and bills of general interest. The summary analyzed the current law, the proposed legislation, and the impact on the Board. Ms. Parker updated the status of Senate Bill 774 (Senator Margett) and Senate Bill 481 (Speier), which had both recently passed the Senate and were now in the Assembly. With regards to Senate Bill 91 (Senator Figueroa), the members were informed that this was a two-year bill.

12. **CONSIDERATION OF UPCOMING CALIFORNIA MOTOR CAR DEALERS ASSOCIATION FIELD MEETINGS AND DEALER ROUNDTABLES**

The members were provided with a California Motor Car Dealers Association ("CMCDA") calendar and encouraged to attend the field meetings. Mr. Bayuk indicated that he would attend the October 11, 2001, Field Meeting in San Francisco. Mrs. Brogin indicated that she too would try to attend that meeting. Mr. Soteras committed to attend the December 6, 2001,

Field Meeting in Sacramento. Board staff will also attend these meetings.

13. **EXECUTIVE DIRECTOR'S REPORT**

- a. Administrative Matters.
- b. Status of Protests.
- c. Status of Petitions.
- d. Status of Appeals.
- e. Judicial Review.
- f. Notices Filed Pursuant to Vehicle Code Sections 3060 and 3062.
- g. Other.

Mr. Novi provided the members with a Report on Administrative Matters, which identified all pending projects, the Board manager and committee assigned, estimated completion date, and status. With regards to the project promulgating rulemaking which implements the provisions of Senate Bill 1819 (Ch. 789, Stats. 2000), Mr. Flesh requested that staff work with the Policy and Procedure Committee concerning proposed amendments to the text of the regulation (13 C.C.R. § 565). The proposed amendments will be considered at the June 26, 2001, Special meeting, in Sacramento.

The members were also provided with a copy of the Executive Director's Report. Ms. Parker reported that since the Executive Director's Report was prepared, three (3) new protests had been filed and two (2) matters had been resolved.

14. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 11:35 a.m.

Submitted by

Signature on file

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TOM NOVI  
Executive Director

Signature on file

APPROVED: \_\_\_\_\_

Robert T. (Tom) Flesh  
President  
New Motor Vehicle Board